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Wm Cogswell*

# FISHERIES TREATIES

BETWEEN

## THE UNITED STATES AND GREAT BRITAIN

DISCUSSED FROM A

### FISHERMAN'S STANDPOINT,

BY

LUTHER MADDOCKS,

*Secretary National Fishery Association,*

WASHINGTON, D. C.

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## THE TREATY SUMMARIZED.

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Delimitation in this case means the establishment of the Headland Theory, which we have always protested against, and gives up thousands of square miles of water which, under the treaty of 1783 and 1818, we had a right to use.

The Strait of Canso there is no contention about, for it has always been a free highway.

We receive under this treaty only humane privileges, such as all civilized or semi-barbarous nations grant to each other, even when there is no treaty to bind them. Canadian vessels have had full commercial privileges in our ports since 1830. If there is any doubt as to what privileges we have in Article XI there can be no doubt in Article XV as to what privileges we do not have or those which we can have when Canada can send fish free into our markets. To remove the duty on fish would be to sound the death-knell of the American fisheries. This is sought by Great Britain to destroy our marine power and to add to her strength, and give her colonies the monopoly of our fish markets.

The American fishermen decidedly object to having any disfiguring marks put upon their vessels, which are their pride, and say that the Stars and Stripes are sufficient marks for their identification.

The tonnage tax mentioned in the protocol is outrageous, and is intended to fix a value on privileges which are ours by right, but are **WITHHELD** by this treaty.

There is no word in the treaty which gives the least intimation that American fishermen would receive under it the least recompense for the outrageous and barbarous treatment to which they have been subjected by Canada during the past three years, nor for the illegal detention and seizure of vessels by Canada does the United States claim damages.

The contention of the United States is giving up, and, if this treaty is accepted, the world must hold that we have not been honest in asking for the rights which have always been held to be ours, but which this treaty surrenders, and its defenders try to show were merely false pretenses.

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### ITS TERMS DISCUSSED.

The treaty recently concluded at Washington between Great Britain and the United States, and which is now receiving the consideration of the Senate, and the ratification of which has been asked for by the President, is a document which needs the careful consideration of those engaged in the fisheries and whose interests are to be affected by it; and particularly is it entitled to receive the greatest attention and consideration from those gentlemen who are intrusted with the important functions of legislating upon it. Before official action is taken by the Senate upon this treaty, it seems eminently desirable that an expression of opinion should be given by those interested in the fisheries, and that it should be viewed from the standpoint of the fishermen, so that the public may know whether, in the opinion of those whose interests are most affected, this document meets with their wishes and fulfills their requirements, or is stated in such a manner as to definitely and absolutely settle all questions of doubt. The fact that, though the treaty has been published only a few days, it has provoked an endless diversity of opinion and interpretation, seems to make it necessary to prepare this criticism and to state wherein its provisions may or may not be understood, and wherein it is believed that they are inimical to the best interests of American fishermen.

In considering the treaty just concluded, which has been quoted at length, it will be first seen that it purports to be a treaty for the special object of interpreting clearly article first of the convention of October 20, 1818, for the purposes "of removing all causes of misunderstanding in relation thereto, and of promoting friendly intercourse and good neighborhood between the United States and the possessions of her Majesty in North America."

It is doubtless a fact that the gentlemen who acted for the United States earnestly desired to conclude an arrangement which might prevent any misunderstanding in our future fishery relations with the British North American provinces. It is, however, unfortunate, both for them and those citizens of the United States whose interests are most directly affected by this treaty, that its provisions are stated in such ambiguous terms that its proper interpretation is apparently rendered impracticable. Not only is the fisherman, who is unused to the technicalities and construction of diplomatic phraseology, rendered unable to interpret this treaty in a practical manner, so that he may avoid complications, but we find that men learned in law and experienced in diplomacy, men of rare scholarship and executive and legislative ability, find it is difficult to give it a correct interpretation.

It is somewhat noteworthy that this present treaty, which is supposed to take the place of the treaty of 1818, and to be a definition of article first of that convention, fails to specify, as does the treaty of 1818, the particular coasts upon which our fishermen still retain the right to fish in the littoral waters inside the limit. The failure to make this designation in plain and unequivocal language leaves it open to a doubt whether, if the present treaty is ratified, our fisher-



men may not be deprived of these ancient rights which they have been in possession of since the convention of 1818, or earlier.

Article first provides for the delimitation of British waters, bays, creeks, and harbors of the coasts of Canada and Newfoundland, as to which the United States renounce forever any liberty to dry nets or cure fish, but nothing is said in that article, nor is any mention made in any succeeding sections of the treaty, of any coasts in British North America where our fishermen still enjoy a right to the inshore fisheries. Presumably it was intended by those who drafted this treaty that no rights of this kind which Americans have heretofore enjoyed should be surrendered. But the fact that different constructions have already been put upon this matter, in the discussions which have appeared in the daily press, and the additional fact that those interested in the fisheries are entirely unable to definitely decide whether those rights have been surrendered or not, shows conclusively how desirable it might have been to place this matter beyond question.

In regard to the manner of delimitation, as provided for in this treaty, no special objection might be made, perhaps, were it not that the treatment received by the United States, in a similar controversy, in the appointment of members to the convention at Halifax, had made this system of settling our fishery troubles exceedingly odious to all who are interested in the fisheries. It is not yet forgotten how the United States was treated in that affair, and if justice and fair dealing were denied us then, have we any right to expect better treatment at the hands of Great Britain and her colonies at the present time?

In regard to the delimitation of bays, creeks, harbors, &c., it must be acknowledged that in accepting this treaty the United States would be surrendering the contention which she has always made, through her statesmen, in regard to the right of our fishermen to pursue their calling anywhere outside of three miles of the coasts of the British North American possessions. If any advantage had been gained to our fishermen by this surrender, there might have been an excuse for it, but we certainly fail to see where any concession has been made by Canada which may be considered a fair equivalent for this arrangement, which prohibits our fishing vessels from entering bays beyond a certain limit. The assertion which has been made that these bays are not available to Americans as fishing grounds is not a defensible one. Even if this is granted, there can be no reason for surrendering rights which we have long possessed and which have always been claimed by the ablest statesmen of the United States, unless we obtain for these some equivalent which may be of value to our fishermen.

In this connection, it is proper to refer to Article IX, wherein the right of fishing vessels of the United States to navigate the Strait of Canso is affirmed. Although there has been some diplomatic discussion as to the right of American fishing vessels to navigate the Strait of Canso, it is beyond question that this strait has always been considered the highway of nations, and vessels of all classes have navigated it without restriction since the establishment of the

independence of the United States. It is true that the President states that: "The uninterrupted navigation of the Strait of Canso is expressly and for the first time permitted." Well may the Hon. William H. Trescott ask: "Who has ever denied it?" And he continues: "What further or other affirmation do we need than that it is the necessary means of communication which, as an independent nation, we have used for a century, between the American waters, the right to navigate and fish in, which is ours by the treaties of 1783 and 1818."\* He rightly believes that an English statesman would as soon think of closing the Strait of Gibraltar or restoring the dues at the Strait of Elsinore as he would of closing the Strait of Canso to navigation.

In making this new treaty, in which it is claimed there are important concessions for the fishermen of the United States, it is evident that the treaty of 1818 served as a basis for the present negotiations, and that the commercial arrangement between Great Britain and the United States in 1830 has been utterly ignored. When we see Canadian and Newfoundland vessels enjoying in our ports all the commercial rights which our own vessels have, and observe the fact that our Government is exceedingly solicitous to avoid giving these foreigners any trouble; and when it is clearly understood that by the acts and proclamations of 1830 our vessels are entitled to the same rights, privileges, and considerations in the ports of Canada that Canadian vessels receive in ours, it is certainly a matter of surprise that, in a formal treaty of this kind, privileges far more restricted and which fail to secure to our fishermen all that they should enjoy, are looked upon and mentioned as containing important concessions to the people of the United States—at least this is the construction put upon it in the President's message.

The main thing contended for by American fishermen, since the abrogation (1885) of the fishery clauses of the treaty of 1871, has been for the enjoyment of those commercial rights in Canadian ports—the same rights, *nothing more nor less*—which Canadians enjoy in the United States. It has not been a matter of fishery rights for which they have contended, because they have distinctly stated and reiterated the statement, time and again, that Canada has no inshore fisheries for which they are disposed to treat or to accept, where an equivalent is demanded. The convention of 1818 produced a treaty which was a fishery treaty and nothing else. It gave us no commercial rights, nor had we enjoyed any commercial rights in the ports of British North America under previous treaties. †

\*New York Herald, February 27, 1888.

† The treaties of 1854 and of 1871 were also fishery treaties. It was conceded at Halifax in 1877, by the Joint Commissioners, that the so-called Washington treaty gave no commercial rights to fishermen of the United States, and that they were not entitled, under the provisions of that treaty, to purchase bait, ice, or other commodities in Canadian ports. But although Americans were granted no commercial rights in these treaties, it is, nevertheless, a fact that since the reciprocal trade arrangement of 1830 the fishing-vessels of the United States have bought bait and other supplies in Canadian ports, where, also, they have shipped men and transhipped their cargoes; nor was the right to do these acts questioned until 1870, when Canada was trying to coerce the United States into making a treaty which would open our markets to her fishery products. Then she seized our vessels for buying bait, and refused commercial rights which we had previously enjoyed.

"The policy of Great Britain," says Judge Charles Levi Woodbury, "first expressed by the act of 12 Car. II., had been to prohibit foreign nations from intercourse by sea with her colonies, either to import into or export from them in their vessels. This policy was in force when the treaty of 1783 was made. The rights of the United States, therein acknowledged, to use the ports, creeks, and shores for the purpose of its fisheries, conferred no right to trade with British North America. In 1818 the laws of the United States also prohibited British vessels from importing from or exporting to the colonies, from the ports of the United States, and continued so to prohibit them, long after the treaty of 1818."

Thus it will be seen that, in the treaty of 1818, the right to fish within the three-mile limit of certain parts of the coasts of the British Provinces was renounced by the United States, but the right was reserved to our fishermen to enter all bays and harbors within those limits for the purpose of shelter and repairs, and to procure wood and water, subject to regulations which should prevent them from abusing the privileges thus conferred upon them. The privileges thus given were not commercial in their nature; they concerned chiefly the safety of fishing-vessels and their crews, and were granted as special rights to enable them to prosecute their voyages with greater safety and with the best assurance of success. These clauses in the treaty of 1818 made the fishing-vessels of the United States a specially privileged class at a time when, as we have seen, no other American vessels were permitted to hold intercourse with the British Provinces. These privileges and rights were not accorded to American fishermen from any generous spirit on the part of Great Britain, but because it was held by American statesmen, who had the moral support of the civilized world at that time, that these were rights that were held in common with the subjects of Great Britain, and that it was no concession on the part of the latter government that American fishermen should retain that which they had so long enjoyed. If this is true, and we believe there are none bold enough to deny it, then the treaty of 1818 should have a liberal construction so far as the rights of American fishermen are concerned. Viewed in this light, it certainly seems unreasonable that this class of men and vessels which were entitled to special rights and privileges prior to 1830 should now, or at any time since that date, be restricted in the enjoyment of privileges which are accorded to citizens of the United States engaged in other trades.

Now, under the provisions of this recent treaty, and notwithstanding the fact that the Canadian vessels are enjoying to-day *all* commercial rights in the ports of the United States, our fishing-vessels are deprived of commercial privileges in the provinces unless such may be accorded in case of shipwreck or disaster. Even the ordinary rights of humanity, which all civilized and even semi-barbarous nations grant to each other without treaty, are here put down as concessions which the fishermen of the United States are expected to value as important considerations.

By referring to Article XI, it will be seen that our vessels, when under stress of weather or from other casualty, are compelled to enter the ports, bays, and harbors of "eastern and northeastern coasts of Canada or of the coasts of Newfoundland" they may be allowed to "unload, reload, transship, or sell, subject to the customs laws and regulations, all fish on board, when such unloading, transshipment, or sale is made necessary *as incidental to repairs*, and may replenish outfits, provisions, and supplies *damaged or lost by disaster*; and *in case of death or sickness* shall be allowed all needful facilities, including the shipping of crews."

In the succeeding paragraph, liberty is granted to United States fishing-vessels to obtain such provisions and supplies as are sold to ordinary trading-vessels, *for their homeward voyage*, providing these vessels obtain a license of the customs official, and that the supplies are not obtained by barter.

In view of the fact, as has previously been stated, that all classes of Canadian vessels are enjoying full commercial privileges in the ports of the United States, it does seem remarkable that the granting of the ordinary courtesies of civilization, privileges which no Christian nation is supposed to deny to another in case of distressed and shipwrecked mariners, is here made a right to be gravely considered between two friendly and adjacent countries. And when by Article XXIX of the treaty of 1871, which still remains in force, it is stipulated that goods, wares, and merchandise for Canada may be landed at Portland, Boston, New York, and other ports designated by the President, and transshipped through the territory of the United States without payment of duty, and that goods, wares, and merchandise for the United States may be landed in Canadian ports and transshipped through Canada without payment of duty, it certainly is surprising that the privilege of transshipping fish, as stated in this last treaty, is made conditional, and is applicable only to a vessel in distress or to one partially shipwrecked, having its catch on board. And this provision is made still more striking when it is considered that at the present moment the United States is faithfully observing its portion of the treaty, and even extending to the Canadians greater privileges than they are entitled to. It is only explainable when we consider how different has been the conduct of Canada during the past two years, for she has systematically violated this treaty by denying to American fishermen the right to land and transship their cargoes. It is evident that her policy in doing this has been to give the impression, when this new treaty was made, that she granted a privilege to our fishermen, when in fact by this clause of the present treaty they are to be denied the enjoyment of rights to which they are justly entitled. There can be no question about the meaning of the following clause of the treaty of 1871, which has never been repealed.

"It is further agreed that for the like period goods, wares, or merchandise, arriving at any of the ports of Her Britannic Majesty's possessions in North America and destined for the United States,



may be entered at the proper custom-house and conveyed in transit; without the payment of duties, through the said possessions under such rules and regulations and conditions for the protection of the revenue as the governments of the said possessions may from time to time prescribe; and under like rules, regulations, and conditions goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions."

A writer in the *New York Tribune* of February 27, 1888, says:

"Under this article of the treaty of 1871 American fishermen have a clear commercial right to land fish in any Canadian port for transshipment in bond to the United States. Fish and fish oil are merchandise, and may be entered at a Canadian custom-house without payment of duty for transportation to the United States. Fishermen have the same privileges in this respect which Canadian or British vessels have when they land in American ports goods destined for Canada. If they have not been allowed this privilege it has been because they were deprived illegally in Canadian ports of a commercial right that is positively guaranteed by treaty."

He thinks that in the present treaty an attempt has been made "to remove the sanction of treaty law by prohibiting the exercise of this right while the duties on fish and fish oil remain in the tariff schedule. In this respect Article XV of the new treaty operates directly to prevent the transshipment of fish and to rob American fishermen of one of their treaty rights."

So far as these limited privileges are concerned, which have apparently been grudgingly granted to American vessels in distress, or those on the homeward voyage, it is well to consider the following able statements from the pen of Judge Charles Levi Woodbury:

"Canada has begun this affair. Her excuse is that the words 'for no other purpose' in the treaty of 1818 permanently exclude our fishermen. She disregards the fact that the agreements of 1830 expressed that they were based on the respective removal of 'all restrictions on commerce and discriminations on tonnage.'

"It is a disingenuous excuse. Clearly, in the fishing treaty of 1818, the words 'for no other purpose' rebut the idea that commercial or unnamed trading privileges were intended to be granted to vessels of the United States. Great Britain had closed all her colonial ports from foreign vessels by law. She opened them in the same way by the proclamation of 1830, and they stand open until closed by law. Since the proclamation the fishing-vessels of Canada have enjoyed, in the ports of the United States, every privilege of commerce flowing from those proclamations. Not only did Canada know this, but a perverse disposition has induced her, while continuing in their unrestricted use and enjoyment, to endeavor to deprive our fishermen of their similar right in Canada.

"There was, after 1830, no law prior to this of 1886 which excluded our fishermen from trading or transshipping cargoes in Canadian ports destined for the United States. Canada, however, claims that

the British act of 1819 excludes American fishermen from 'buying bait' in her ports. By this statute if a foreign vessel, within the waters where the right to fish has been renounced by the United States, or any persons on board, 'shall be found fishing or to have been fishing, or preparing to fish' within such distance of the coasts, etc., the vessel shall be seized, prosecuted, condemned, etc.

"The clause states that the method of proceeding shall be the same as in proceedings under customs or navigation acts. The preamble of the statute reads, 'to make regulations respecting the taking and curing of fish,' etc. This does not look like a law to prevent the buying and exporting of bait, a matter at that time decisively covered by the act of 12 Charles 11, then in full force.

"Careful examination was made at the time of the Halifax Commission of all the records of seizures of American fishermen, and it was found that prior to 1870 not one had been charged with 'buying bait' as a violation of the clause 'preparing to fish.'

"In 1870, for the first time, this construction was set up and two American vessels seized, and, among other matters, libeled for buying bait in open port, in alleged infringement of the act of 1819."\*

The same excellent authority says:

"Buying and selling bait, like the importation or exportation of it, are commercial transactions, and, therefore, by the pledged faith of the proclamation of '330, open to commerce by the vessels of each country."

And in spite of all this evidence of the clearly established rights of American fishermen to enjoy commercial privileges in the ports of Canada, and although it is demonstrated that they may, under certain clauses of the treaty of 1871, which still remain in force, transship their cargoes, and that they should be entitled, as one of their rights, to buy bait in all ports of the British provinces, we see in this treaty which the Senate is called upon to ratify a positive denial of these rights and privileges. How is it, we may well ask, that the welfare of the American fisheries has received so little consideration that these sacrifices have been made in this treaty, when no restriction whatever is put upon the Canadians in the matter of buying bait or making other purchases in our ports? The fact that American fishermen may be able to prosecute the cod and halibut fishery without depending upon the British provinces for bait, is no reason why this privilege or the right to purchase ice or other stores should be given up, unless the citizens of Canada are restricted in a similar manner.

When former treaties have been negotiated, wherein the welfare of the fisheries have been concerned, it may have been pleaded in extenuation of any mistakes that have been made that the gentlemen charged with the responsible duty of negotiation may have lacked that definite knowledge of the subject under consideration, which might have enabled them to avoid mistakes, and which might make it possible to state the terms of the treaty so clearly and so explicitly

\* The Canadian Fisheries Dispute. By Judge Charles Levi Woodbury. American Law Reporter, May-June, 1887.

that it could not well be misunderstood. But no excuse of this kind can be offered in the present case. If the "negotiators" charged with the duty of representing the interests of the American fishermen in this case are not well informed upon the subject they had to deal with it is not because they lacked the requisite sources of information. Not only have the rights and needs of the American fishermen, under previous treaties, and all matters pertaining to this controversy, been fully set forth in the public press and pamphlets prepared by the highest legal authorities, but the fishermen of the United States have sent to Washington, and have maintained there during the progress of these last negotiations, representatives who were ready to state their claims and give expression to their needs and their wishes. It is a rather remarkable commentary to this entire proceeding that since the abrogation of the fishery clauses of the treaty of 1871, and during the progress of these last negotiations, no authorized agent of the Atlantic fishermen has been called upon to state their case in a personal interview with the gentlemen who were officially charged with the responsible duties of negotiating for the rights of the fishermen. This is a matter for still greater surprise, considering the fact that the officers of the fishery associations have sought to state their case in personal interview, and have not been granted this privilege.

Considering the fact that the State Department has had correspondence with the British Government in relation to the denial of American fishermen of the right to purchase coal in the British provinces, and in view of the fact that the day may not be far distant when steam may be extensively employed in our ocean food-fisheries, it appears to be a serious omission that no provision has been made in this last treaty which will enable such vessels to obtain the necessary fuel in provincial ports, unless this privilege is secured to them by the surrender of our markets. It must be obvious, to any one who has given the matter reasonable consideration, that the conditions which prevailed in 1818 and those which exist to-day are very dissimilar. Previous to 1845 and 1850 our fishing-vessels depended almost wholly upon wood for fuel, but at the present time coal is generally the only fuel used, even on sailing vessels, and of course all steam-vessels are dependent upon it. Now, if this treaty goes into force, though it has been negotiated in 1888, its provisions are so framed that it is really no more adapted to the present methods and present condition of civilization than is the obsolete document known as the "Convention of 1818." So far as clearness of statement is concerned it is very questionable if the earlier treaty is not the best, though we are aware how much it has been misunderstood and misinterpreted by Great Britain and Canada.

Referring to Article XII, it may be said that the fishing-vessels of Canada and Newfoundland, as has been shown, are now and have been enjoying greater privileges in the United States than are secured by this treaty to the fishing-vessels of this country in Canadian ports. If this clause had been modified so as to read that "the fishing-vessels

of Canada and Newfoundland shall have on the Atlantic coast of the United States *all* the privileges reserved by this treaty to the United States fishing-vessels in the waters of Canada and Newfoundland *and none other*," it might have been satisfactory to the American fishermen. For then the vessels of both countries would have been placed upon an equal basis, so far as the rights in the ports of the respective countries are concerned.

We strenuously object to putting any numbers or any marks on our fishing-vessels at the dictation of any foreign power; such "ear marks" put upon them under such conditions we consider would be humiliating to our fishermen. The American flag will, as it has always done, distinguish their nationality. It is seldom, if ever, difficult to determine whether a vessel belongs to the fishing fleet or otherwise.

In accordance with Article XIV a vessel may be seized for preparing in inshore waters to fish therein; and, if the court sees fit, she and her cargo may be confiscated for this violation of the treaty. There is no definition here of what constitutes "preparing to fish," nor is it shown how it may be determined that there might be an intent to fish in inshore waters as distinguished from fishing farther from the land. Probably no clause in the treaty may be more liable to be misconstrued than this, and if we are to judge by the past, there is certainly much reason to apprehend great difficulty from the constructions which may be put upon it. It is evident that in putting this clause into practical operation our vessels may be seized at any time on the smallest provocation, or even on the assumption that they are about to engage in inshore fishing or are "preparing" to do so.

This view of the case has evidently been taken by others. A writer in *Frank Leslie's* makes the following statements relative to prospective troubles for our fishermen in the courts of Canada if this treaty is ratified.

"This, in short, is an admirable convention—for Canada and Great Britain. While it is not so manifest a jug-handle treaty as the so-called reciprocity treaty of 1854, it is at least one-sided enough to secure its prompt ratification on the other side of the line. It leaves all matters of present dispute unsettled, or else refers points of contention to the adjudication of Canadian courts. Our experience has not been such as to cause a further longing for the services of these tribunals as courts of last resort. A treaty which leaves its own interpretation to one of the high contracting parties, which happens in this case to be our adversary, will scarcely find much favor with the United States Senate."

But the entire aim and animus of this treaty is summarized in the fifteenth article. This tells us that when we are ready to open our markets to Canada and to Newfoundland, and to sacrifice our fisheries by so doing, American fishermen may receive in British provincial ports the commercial rights which are now enjoyed by British



subjects in ours, and which we claim we have a similar right to enjoy in theirs at the present moment.

The past unfriendly acts of Canada, and the seizure of our vessels on mere technicalities for the last two years, and denial of all commercial rights, and the barbarous treatment of our fishermen, have been for the single purpose of coercing this Government into opening its markets and permitting foreign-caught fish to compete with the products of our own fisheries. It is true this treaty does not state this in so many words, but it leaves the question open, and so long as the United States Government is apparently indifferent to the welfare of our fishermen so long will Canada resort to unjustifiable means to force us to open our markets to her fishery products. No one who has watched the progress of our food-fisheries can fail to be convinced that those industries will be ruined if we again permit the free entry of foreign-caught fish. It is not necessary here to reiterate how unfortunate this would be for the country; for the maintaining of our fisheries has been shown time and again to be a matter of the most vital consequence to the United States, both as a source of food supply and a resource wherefrom to draw men to man our navy in time of war.

The following testimonial of their usefulness and their importance to the United States is from the pen of the present Secretary of State. He says: "They pursue one of the most useful and meritorious of industries; they gather from the seas, without detriment to others, a food which is nutritious and cheap for the use of an immense population; they belong to a stock of men which contributed before the Revolution most essentially to the British victories on the North-eastern Atlantic, and it may not be out of place to say they have shown since that Revolution, when serving in the Navy of the United States, that they have lost none of their ancient valor, hardihood, and devotion to their flag." Elsewhere he says: "Fishermen, as you are aware, have been considered from the usefulness of their occupation, from their simplicity, from the perils to which they are exposed, the wards of civilized nations."\*

The eminent and experienced legislator, Hon. S. S. Cox, bears equally efficient testimony to the usefulness of the fishermen. In a speech delivered in the House of Representatives (May 12, 1884), he says:

"A legislator caring for the common weal should not only look at the economic value of fish as food for the people, but he should also regard the fisheries as a fostering element in seafaring and training for maritime adventure and hardship, with a view to the humanities of life saving on the coast and the possibilities of international conflict."

And the importance of the fisheries have been shown by him in the same speech.

"From Cape Hatteras to the Gulf of St. Lawrence," he remarks,

\* Letter of Hon. T. F. Bayard to Sir L. West, October 19, 1886.

"where mackerel and menhaden are taken; from North Carolina to Massachusetts, where the oyster and other mollusks abound; about the keys of Florida, where the red snapper is caught in abundance; from the fur-seal fishery of Alaska to the North Pacific, which our whalers penetrate; from the waters where rolls the Oregon that once heard no sound save its own dashing, but now hears the hum of men engaged in a great industry, to the Great Lakes, where white-fish play around the isles made memorable by Perry's victory; from one end of our land to the other, over one hundred thousand of hardy men pursue this interesting and adventurous industry. A million of souls depend upon the pursuit. Their fleet is nearly seven thousand vessels and forty-five thousand boats."

It may be asked how shall we deal with this matter, what can be done to settle the fishery question between the British North American provinces and the United States? This can be done, and it has the sanction of the Forty-ninth Congress. Wipe out all legislative commercial arrangements, and let us go back to where we were, so far as commercial intercourse with the British provinces is concerned, when the treaty of 1818 was made. In other words, declare non-intercourse. Put Canada in the same relation to the United States as she was seventy years ago. Then our fishermen would have the same rights they have now under the treaty of 1818, and we should then be in a position to say to her: "Are you willing this should continue, or do you prefer to deal with us on a fair basis and give to all our vessels, as we are willing to give to yours, full commercial rights in your ports?"

This may seem a harsh measure to adopt, but is it not justifiable? Can it be claimed that we are dealing unfairly in asking or demanding that we go back to the precise conditions under which the treaty of 1818 was made, and then propose to meet Canada half way and give her as much as she gives us, *and no more*? Beyond question, this was the sentiment of the people of the United States, as expressed in the "retaliatory act" of the last Congress. Nor has the executive branch of our Government been oblivious to the injustice with which our fishermen have been treated by Canada and the deliberate purpose of the officials of that country to rob Americans of their rights.

"The hospitalities of Canadian coasts and harbors, which are ours by ancient right," writes Secretary Bayard, "and which these treaties confirm, cost Canada nothing and are productive of advantage to her people. Yet, in defiance of the most solemn obligations, in utter disregard of the facilities and assistances granted by the United States, and in a way especially irritating, a deliberate plan of annoyances and aggressions has been instituted and plainly exhibited during the last fishing season—a plan calculated to drive these fishermen from shores where, without injury to others, they prosecute their own legitimate and useful industry."\*

\*Letter to Hon. Edward J. Phelps, U. S. Minister to Great Britain, under date November 6, 1886.

It is not surprising, in view of this vigorous and truthful statement of the case by Mr. Bayard, that he should have signed a treaty (as the principal party on the part of the United States) in which these very rights of the American fishermen have been surrendered?

The protection of our fisheries is a matter of the utmost consequence to this country, nor should their future prospects be placed in jeopardy, as they have been in the fifteenth article of this treaty, by holding over them the prospective threat of free trade in fish.

The statesmen who guided the destinies of this country in its early days saw the necessity of fostering the fisheries, and immediately after the close of the war of independence bounty laws were enacted by Congress which granted to the fishermen certain financial encouragement to enable them to prosecute their industries at a greater advantage than otherwise.

In 1819, a few years after the close of our second war with Great Britain, these laws were amended so as to give the fishermen a larger bounty than they had previously received. With this encouragement, and with the markets of the United States protected by a duty on foreign fish, the American fisheries prospered to a remarkable degree; nor was the increase in the fishing fleet much retarded by loss and the interruption caused by the war of 1812-'15, or by the many annoyances to which our fishermen were subjected by the harsh interpretation of the fishery clauses of the treaty of 1818. The impulse which had thus been given to our fisheries continued to have its effect, even after the conclusion of the so-called reciprocity treaty, for it took some years for the Canadians to realize and properly appreciate the advantages which they had over Americans, under the provisions of that treaty.

Thus we find that the American fishing fleet engaged in the cod and mackerel fisheries reached its maximum about 1862, in which year there was employed in these two branches of the food fisheries 214,197 tons of shipping, according to the returns of the Bureau of Statistics. Although there has been more or less fluctuation since that date, the general result has been a decline in our fisheries which is as marked as it is deplorable. In 1883 we had employed in the cod and mackerel fisheries about 74,197 tons, and since that date, though I have no statistics at hand to substantiate the statement, I am positive that there has been a still further decrease in our fishery marine. Considering the growth of the country, the demand which exists for food products of all kinds, and the necessity for the maintenance of a large fishery marine, these figures are certainly startling and may well arrest the attention of political economists. It is too evident to admit of argument that this result, which is much to be regretted and which ought to be humiliating to the pride of every American citizen, is due to the fact that our fisheries have been left unprotected, and the American fisherman has had to compete in his own markets against the foreigner, who is encouraged by bounties, and who is assisted in every possible manner, as any one may learn who chooses to study the subject.

The evil effects which might have resulted from the admission of foreign fish into our markets have been fully set forth and ably discussed by numerous writers. Therefore a lengthy discussion of the question is rendered unnecessary here. We may judge of the future by the past, and statistics and the evidence of men who are qualified to speak or write upon this subject, and who are unbiased in their opinions, except so far that they are disposed to urge the protection of American fishery interests from the aggressive policy of foreign powers who are inimical to these interests, show conclusively that the free admission of foreign fish into our markets has been a great injury to the development of our own fisheries. Indeed, not only have our fishing interests been retarded in development, but they declined under the so-called reciprocity treaties in a manner that was truly startling, as has been previously shown.

"In many places on the [New England] coast," says a writer on this subject, "it was found the treaty had exerted a very baneful influence. Towns which had formerly sent to sea fleets of fishing vessels varying from twenty-five to upwards of one hundred sail had then barely a remnant left, and in some cases not a single schooner. Some of these outfitting stations were veritable pictures of desolation—merely reminders of a lost industry. One in particular called 'Rigg's Cove,' at Georgetown, Me., impressed me the most forcibly. From here had sailed a few years previously fifty fine schooners. But what a change! At the time of our visit nothing remained to indicate its former business importance but neglected and tumble-down storehouses and decaying wharves, against which lay a superannuated fish freighter, the tide flowing in and out of her open seams, and the broken cordage flapping monotonously against her bare spars as if she had come here to die on the scene of her former usefulness.

"It may not then be wondered at that, with such examples before them, American fishermen look with dread and distrust upon any proposition to renew similar relations with the British provinces. The evils they now have under the treaty of 1818, though they are many and onerous, are preferred instead.

"Judging from the past, there can be no question that the result of another era of free fishing and "free fish" would be the practical annihilation of our ocean fisheries. And there can be little doubt that fair success can be obtained and our fisheries restored to prosperity if they are accorded a reasonable amount of protection, so that, at least, they may be placed on an even footing with foreign competitors who are fostered by bounties, and have none of the onerous duties to pay which are exacted from our fishermen. \* \* \*

"And will it not be a wiser policy to promote by all justifiable means an industry which adds to the country's wealth, and at the same time trains a large body of efficient seamen who must ever stand as a bulwark against its invasion by sea? If this is granted, then experience has proved that there is only one way to reach the desired result. While free fish will surely sound the death knell of



the American fisheries, the assurance of American markets for American products will as certainly promote them."\*

Statements of this kind from impartial observers might be multiplied to any extent, but, we are sure, enough has been said to impress any one with the fact that we must always protect our fisheries from aggressions of foreign officials, and from the free competition of foreign fishery products, or else, in a very brief time, we shall be compelled to rely for fish-food entirely upon a monopoly controlled by foreign capital and operated under a foreign flag.

Patriotism and the principle of self-protection should be sufficient to induce every citizen of the United States who has the welfare of his country at heart to oppose any measure which will bring about such results, which are certain if we comply with the wishes of Canada.

And why should Canada complain, as she has done, of what she is pleased to term prohibitive duty on fish, when as a matter of fact our rates of tariff on fishery products are only about half of her own rates, and only a few of our industries, if any, are so poorly protected as the fisheries are under the present tariff and the prevailing regulations of the Treasury Department. Well may Senator Frye exclaim, "Of all our industries this alone is left unprotected, and the men employed in it are the most exposed, the hardest worked, and the poorest paid. The duty which England seeks to repeal is the lowest in the list of duties, less than that on any agricultural products, not one-half so great as that on any manufacture, two-thirds lower than that on sugar and rice, lower than that on beef, or mutton, or pork."†

Under our present tariff arrangement salt fish only are dutiable, 1 cent per pound, or two dollars per barrel, being the duty on mackerel, and 50 cents per hundred pounds on most all other kinds of salt fish. This specific duty averages about 10 per cent. ad valorem, which is certainly not a tariff to be complained of when we consider the much higher rates charged on nearly all other kinds of imported goods.

But fresh fish are admitted free of duty. In strict accordance with the law such fish are only to be admitted when they are intended for "immediate consumption," but by a ruling of the Treasury Department the plain intent of Congress is thwarted, and the fishery interests of the country are suffering a great injury for lack of that protection which should be given to those who deal in fresh food-fish.

Under the present system of refrigeration, both by natural and artificial means, it is possible to preserve fresh fish for an indefinite period. These are admitted into our markets free of duty, for the simple reason that it is so difficult to say definitely whether they are intended for immediate consumption or not, though it is no secret with all well-informed men that these products are often kept weeks,

\* J. W. Collins, in the *Century Magazine*, October, 1886.

† See Congressional Record, April 10, 1887, page 3396.

even months, without being either disposed of or consumed. In fact, for all practical purposes the same result is secured as if the fish were preserved by salt.

All must be aware of the tremendous increase in the shipment and consumption of fresh food-fish.\*

At the present moment, fresh fish taken on the far-distant banks and along the shores of Newfoundland, upon the Columbia River, or in the Gulf of Mexico, may be seen displayed on the stalls of our fish markets in all our larger towns. Thus the fisherman who plies his lines in the southern seas, or sets his nets in the far West, or dredges oysters in the Chesapeake Bay, is as much concerned in this matter as he who sails from our New England ports or prosecutes his adventures upon the Great Lakes. The truth is—and it is a fact well worthy of consideration by all who are interested in the subject—that not a single pound of fresh fish comes into our markets from the British provinces but it comes directly into competition with the products of our own citizens who are engaged in fishing in every part of this broad country. Every pound of fresh fish thus sold of foreign production prevents the sale of a similar quantity which might be produced by the capital and labor of the United States. Judging by the past, I believe the day is not far distant when nearly all the fish products of this country will be marketed in a fresh condition, and unless we wish to surrender to foreigners our markets and the control of our fisheries it will be seen that we cannot afford to leave them free to compete against our own citizens, upon whom we depend to maintain and support the institutions of our country.

We append, for reference, all treaties between the United States and Great Britain which in any manner are specially applicable to our fisheries, and in their chronological order, including in these the treaty before alluded to, which has just been concluded:

#### TREATY OF 1783.

ARTICLE III. It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the grand bank and on all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island); and also on the coasts, bays, and creeks of all other of His Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as

\* More than thirty million pounds of fresh food-fish have been imported from Canada during the year 1887. No duty was paid on these, nor is any tariff charged on fish packed in cans in a fresh condition, though it is well known that they can be kept much longer than salt fish. It is true that a duty is charged on the cans in which these products are packed, but the fish itself pays no tariff.

the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

#### TREATY OF 1794.

ARTICLE III. It is agreed that it shall at all times be free to his Majesty's subjects and to the citizens of the United States to pass and repass by land or inland navigation with the respective territories and countries of the two parties on the continent of North America and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the seaports, harbors, bays, or creeks of his Majesty's said territories, except in small vessels trading *bona fide* between Montreal and Quebec.

ART. XIV. His Majesty consents that in case an American vessel should by stress of weather, danger from enemies, or other misfortunes, be reduced to the necessity of seeking shelter in any of his Majesty's ports into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the Governor of the place, be hospitably received and be permitted to refit and to purchase such necessities as she may stand in need of. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted. Nor shall be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expenses.

#### TREATY OF 1818.

ARTICLE I. Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea Islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the Straits of Bellisle, and thence northward, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such pur-

pose with the inhabitants, proprietors, or possessors of the ground, and the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

PROCLAMATION OF 1830—ACT OF MAY 15, 1820.

SECTION 1. From and after the 30th day of September next the ports of the United States shall be and remain closed against every vessel owned wholly or in part by a subject or subjects of his Britannic Majesty, coming or arriving by sea from any port or place in the province of Lower Canada, or coming or arriving from any port or place in the province of New Brunswick not included within the act to which this act is supplementary. And every such vessel so excluded from the ports of the United States that shall enter or attempt to enter the same in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board, be forfeited to the United States.

By an act of March 1st, 1823, this prohibition was temporarily suspended as far as vessels coming from Halifax, N. S.; St. Johns and St. Andrews, N. B.; Quebec, Canada.; St. Johns, Newfoundland, were concerned, but John Quincy Adams' proclamation of March 17, 1827, restored it in full force.

Finally the British Government expressed its willingness to accord full commercial privileges to American vessels in all its ports, and President Jackson on October 5, 1830, issued a proclamation declaring that "British vessels and their cargoes are admitted to an entry in the ports of the United States from the islands, provinces, and colonies of Great Britain, on or near the American Continent, and north or east of the United States."

The commercial privileges thus acquired belong to every vessel under the American flag, no matter whether she be a fishing-vessel, a freight boat, or a passenger steamer, and cannot be bartered away or surrendered by any incompetent or obsequious official.

It must be remembered that while the restrictions mentioned in the treaty of 1794 were placed upon trading-vessels, American fishermen were pursuing their calling upon the coasts and entering the bays and harbors of Canada without molestation.

This was in accordance with their rights guaranteed by the treaty of 1783, and also by the universal custom of all civilized nations.

In the eloquent words of John Quincy Adams to Earl Bathurst on



September 14, 1815, "fisheries, the nature of which is to multiply the means of subsistence to mankind, are usually considered by civilized nations to be under a sort of special sanction. It was a common practice to have them uninterrupted, even in time of war. You know, for instance, that the Dutch had been, for centuries, in the practice of fishing upon the coasts of this island, and that they were not interrupted in this occupation even in ordinary times of war. It was to be inferred from this that to interdict a fishery, which has been enjoyed for ages, far from being a usual act in the peaceable relations between nations, was an indication of animosity transcending even the ordinary course of hostility in war."

#### RECIPROCITY TREATY OF 1854.

ARTICLE I. It is agreed by the high contracting parties that in addition to the liberty secured to the United States fishermen by the above-mentioned convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Islands, and of several islands thereunto adjacent, without being restricted to any distance from the shores, with permission to land upon the coasts and harbors of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish: *Provided*, That in so doing they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coast in their occupancy for the same purpose.

#### TREATY OF 1871.

ART. XVIII. It is agreed by the high contracting parties that in addition to the liberty secured to the United States fishermen by the convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of the provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Islands, and of the several islands thereunto adjacent, without being restricted to any distance from the shores, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish: *Provided*, That in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

50TH CONGRESS, }  
1st Session. }

{ EXECUTIVE  
M.

Message from the President of the United States transmitting a treaty between the United States and Great Britain concerning the interpretation of the convention of October 20, 1818, signed at Washington February 15, 1888.

FEBRUARY 20, 1888.—Read, treaty read the first time, referred to the Committee on Foreign Relations, and, together with the message and the accompanying documents, ordered to be printed in confidence for the use of the Senate.

*To the Senate of the United States :*

In my annual message transmitted to the Congress in December, 1886, it was stated that negotiations were then pending for the settlement of the questions growing out of the rights claimed by American fishermen in British North American waters.

As a result of such negotiations a treaty has been agreed upon between Her Britannic Majesty and the United States, concluded and signed in this capital, under my direction and authority, on the 15th of February instant, and which I now have the honor to submit to the Senate with the recommendation that it shall receive the consent of that body, as provided in the Constitution, in order that the ratifications thereof may be duly exchanged and the treaty be carried into effect.

Shortly after Congress had adjourned in March last, and in continuation of my efforts to arrive at such an agreement between the Governments of Great Britain and the United States as would secure to the citizens of the respective countries the unmolested enjoyment of their just rights under existing treaties and international comity in the territorial waters of Canada and of Newfoundland, I avail myself of opportune occurrences indicative of a desire to make without delay an amicable and final settlement of a long-standing controversy—productive of much irritation and misunderstanding between the two nations—to send through our minister in London proposals that a conference should take place on the subject at this capital.

The experience of the past two years had demonstrated the dilatory and unsatisfactory consequences of our indirect transaction of business through the foreign office in London, in which the views and wishes of the Government of the Dominion of Canada were practically predominant, but were only to find expression at second hand.

To obviate this inconvenience and obstruction to prompt and well-defined settlement it was considered advisable that the negotiations should be conducted in this city, and that the interests of Canada and Newfoundland should be directly represented therein.

The terms of reference having been duly agreed upon between the two Governments, and the conference arranged to be held here, by virtue of the power in me vested by the Constitution, I duly author-

ized Thomas F. Bayard, the Secretary of State of the United States; William L. Putnam, a citizen of the State of Maine, and James B. Angell, a citizen of the State of Michigan, for and in the name of the United States, to meet and confer with the plenipotentiaries representing the Government of Her Britannic Majesty for the purpose of considering and adjusting in a friendly spirit all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland which were in dispute between the Governments of the United States and that of Her Britannic Majesty, and jointly and severally to conclude and sign any treaty or treaties touching the premises; and I herewith transmit for your information full copies of the power so given by me.

In execution of the powers so conveyed, the said Thomas F. Bayard, William L. Putnam, and James B. Angell, in the month of November last, met in this city the plenipotentiaries of Her Britannic Majesty, and proceeded in the negotiation of a treaty as above authorized. After many conferences and protracted efforts an agreement has at length been arrived at, which is embodied in the treaty which I now lay before you.

The treaty meets my approval, because I believe that it supplies a satisfactory, practical, and final adjustment, upon a basis honorable and just to both parties, of the difficult and vexed question to which it relates.

A review of the history of this question will show that all former attempts to arrive at a common interpretation, satisfactory to both parties, of the first article of the treaty of October 20, 1818, have been unsuccessful; and with the lapse of time the difficulty and obscurity have only increased.

The negotiations in 1854, and again in 1871, ended in both cases in temporary reciprocal arrangements of the tariffs of Canada and Newfoundland and of the United States, and the payment of a money award by the United States, under which the real questions in difference remained unsettled, in abeyance, and ready to present themselves anew just as soon as the conventional arrangements were abrogated.

The situation, therefore, remained unimproved by the results of the treaty of 1871, and a grave condition of affairs, presenting almost identically the same features and causes of complaint by the United States against Canadian action and British default in its correction, confronted us in May, 1886, and has continued until the present time.

The greater part of the correspondence which has taken place between the two Governments has heretofore been communicated to Congress, and at as early a day as possible I shall transmit the remaining portion to this date, accompanying it with the joint protocols of the conferences which resulted in the conclusion of the treaty now submitted to you.

You will thus be fully possessed of the record and history of the case since the termination, on June 30, 1885, of the fishery articles

of the treaty of Washington of 1871, whereby we were relegated to the provisions of the treaty of October 20, 1818.

As the documents and papers referred to will supply full information of the positions taken under my administration by the representatives of the United States, as well as those occupied by the representatives of the Government of Great Britain, it is not considered necessary or expedient to repeat them in this message. But I believe the treaty will be found to contain a just, honorable, and, therefore, satisfactory solution of the difficulties which have clouded our relations with our neighbors on our northern border.

Especially satisfactory do I believe the proposed arrangement will be found by those of our citizens who are engaged in the open sea fisheries, adjacent to the Canadian coast, and resorting to those ports and harbors under treaty provisions and rules of international law.

The proposed delimitation of the lines of the exclusive fisheries from the common fisheries will give certainty and security as to the area of their legitimate field; the headland theory of imaginary lines is abandoned by Great Britain, and the specification in the treaty of certain named bays especially provided for gives satisfaction to the inhabitants of the shores, without subtracting materially from the value or convenience of the fishery rights of Americans.

The uninterrupted navigation of the Strait of Canso is expressly and for the first time affirmed, and the four purposes for which our fishermen under the treaty of 1818 were allowed to enter the bays and harbors of Canada and Newfoundland within the belt of three marine miles are placed under a fair and liberal construction, and their enjoyment secured without such conditions and restrictions as in the past have embarrassed and obstructed them so seriously.

The enforcement of penalties for unlawfully fishing or preparing to fish within the inshore and exclusive waters of Canada and Newfoundland is to be accomplished under safe-guards against oppressive or arbitrary action, thus protecting the defendant fishermen from punishment in advance of trial, delays, and inconvenience and unnecessary expense.

The history of events in the last two years shows that no feature of Canadian administration was more harassing and injurious than the compulsion upon our fishing-vessels to make formal entry and clearance on every occasion of temporarily seeking shelter in Canadian ports and harbors.

Such inconvenience is provided against in the proposed treaty, and this most frequent and just cause of complaint is removed.

The articles permitting our fishermen to obtain provisions and the ordinary supplies of trading vessels on their homeward voyages, and under which they are accorded the further and even more important privilege on all occasions of purchasing such casual or needful provisions and supplies as are ordinarily granted to trading-vessels, are of great importance and value.

The licenses which are to be granted without charge and on application, in order to enable our fishermen to enjoy these privileges, are



reasonable and proper checks in the hands of the local authorities to identify the recipients and prevent abuse, and can form no impediment to those who intend to use them fairly.

The hospitality secured for our vessels in all cases of actual distress, with liberty to unload and sell and transship their cargoes, is full and liberal.

These provisions will secure the substantial enjoyment of the treaty rights for our fishermen under the treaty of 1818, for which contention has been steadily made in the correspondence of the Department of State and our minister at London and by the American negotiators of the present treaty.

The right of our fishermen under the treaty of 1818 did not extend to the procurement of distinctive fishery supplies in Canadian ports and harbors; and one item supposed to be essential, to wit, bait, was plainly denied them by the explicit and definite words of the treaty of 1818, emphasized by the course of the negotiation and express decisions which preceded the conclusion of that treaty.

The treaty now submitted contains no provision affecting tariff duties, and, independently of the position assumed upon the part of the United States, that no alteration in our tariff or other domestic legislation could be made as the price or consideration of obtaining the rights of our citizens secured by treaty, it was considered more expedient to allow any change in the revenue laws of the United States to be made by the ordinary exercise of legislative will and in promotion of the public interests. Therefore, the addition to the free list of fish, fish oil, whale and seal oil, etc., recited in the last article of the treaty, is wholly left to the action of Congress; and in connection therewith the Canadian and Newfoundland right to regulate sales of bait and other fishing supplies within their own jurisdiction is recognized, and the right of our fishermen to freely purchase these things is made contingent by this treaty upon the action of Congress in the modification of our tariff laws.

Our social and commercial intercourse with those populations who have been placed upon our borders and made forever our neighbors is made apparent by a list of United States common carriers, marine and inland, connecting their lines with Canada, which was returned by the Secretary of the Treasury to the Senate on the 7th day of February, 1888, in answer to a resolution of that body; and this is instructive as to the great volume of mutually profitable interchanges which has come into existence during the last half century.

This intercourse is still but partially developed, and if the amicable enterprise and wholesome rivalry between the two populations be not obstructed, the promise of the future is full of the fruits of an unbounded prosperity on both sides of the border.

The treaty now submitted to you has been framed in a spirit of liberal equity and reciprocal benefits, in the conviction that mutual advantage and convenience are the only permanent foundation of peace and friendship between States, and that with the adoption of the agreement now placed before the Senate, a beneficial and satis-

factory intercourse between the two countries will be established so as to secure perpetual peace and harmony.

In connection with the treaty herewith submitted I deem it also my duty to transmit to the Senate a written offer or arrangement, in the nature of a *modus vivendi*, tendered after the conclusion of the treaty on the part of the British plenipotentiaries, to secure kindly and peaceful relations during the period that may be required for the consideration of the treaty by the respective Governments and for the enactment of the necessary legislation to carry its provisions into effect if approved.

This paper, freely and on their own motion, signed by the British conferees, not only extend advantages to our fishermen, pending the ratification of the treaty, but appears to have been dictated by a friendly and amicable spirit.

I am given to understand that the other governments concerned in this treaty will, within a few days, in accordance with their methods of conducting public business, submit said treaty to their respective legislatures, when it will be at once published to the world. In view of such action it appears to be advisable that by publication here early and full knowledge of all that has been done in the premises should be afforded to our people.

It would also seem to be useful to inform the popular mind concerning the history of the long continued disputes growing out of the subject embraced in the treaty and to satisfy the public interests touching the same, as well as to acquaint our people with the present status of the questions involved, and to give them the exact terms of the proposed adjustment, in place of the exaggerated and imaginative statements which will otherwise reach them.

I therefore beg leave respectfully to suggest that said treaty and all such correspondence, messages, and documents relating to the same as may be deemed important to accomplish these purposes be at once made public by the order of your honorable body.

GROVER CLEVELAND.

EXECUTIVE MANSION,  
February 20, 1888.

- 
- 1 Whereas differences have arisen concerning the interpretation
  - 2 of Article I. of the Convention of October 20, 1818; the United
  - 3 States of America, and her Majesty the Queen of the United
  - 4 Kingdom of Great Britain and Ireland, being mutually desirous
  - 5 of removing all causes of misunderstanding in relation thereto,
  - 6 and of promoting friendly intercourse and good neighborhood
  - 7 between the United States and the possessions of her Majesty in
  - 8 North America, have resolved to conclude a treaty to that end,
  - 9 and have named as their plenipotentiaries, that is to say:
  - 10 The President of the United States, Thomas F. Bayard, Sec-
  - 11 retary of State; William L. Putnam, of Maine; and James B.
  - 12 Angell, of Michigan.

13 And her Majesty the Queen of the United Kingdom of Great  
 14 Britain and Ireland, the Right Hon. Joseph Chamberlain, M. P. ;  
 15 the Honorable Sir Lionel Sackville Sackville West, K. C. M.  
 16 G., her Britannic Majesty's envoy extraordinary and minister  
 17 plenipotentiary to the United States of America; and Sir Charles  
 18 Tupper, G. C. M. G., C. B., minister of finance of the Dominion  
 19 of Canada.

20 Who having communicated to each other their respective full  
 21 powers, found in good and due form, have agreed upon the fol-  
 22 lowing articles:

23

## ARTICLE I.

24 The high contracting parties agree to appoint a mixed com-  
 25 mission to delimit, in the manner provided in this treaty, the  
 26 British waters, bays, creeks, and harbors of the coasts of Canada  
 27 and of Newfoundland, as to which the United States, by Article  
 28 I of the convention of October 20, 1818, between the United  
 29 States and Great Britain, renounced forever any liberty to take,  
 30 dry, or cure fish.

31

## ARTICLE II.

32 The commission shall consist of two commissioners to be  
 33 named by Her Britannic Majesty and of two commissioners to  
 34 be named by the President of the United States without delay  
 35 after the exchange of ratifications of this treaty.

36 The commission shall meet and complete the delimitation as  
 37 soon as possible thereafter.

38 In case of the death, absence, or incapacity of any commissioner,  
 39 or in the event of any commissioner omitting or ceasing to act as  
 40 such, the President of the United States or Her Britannic Maj-  
 41 esty, respectively, shall forthwith name another person to act as  
 42 commissioner instead of the commissioner originally named.

43

## ARTICLE III.

44 The delimitation referred to in Article I of this treaty shall be  
 45 marked upon British admiralty charts by a series of lines regu-  
 46 larly numbered and duly described. The charts so marked shall,  
 47 on the termination of the work of the commission, be signed by  
 48 the commissioners in quadruplicate, one copy whereof shall be  
 49 delivered to the Secretary of State of the United States and three  
 50 copies to Her Majesty's Government. The delimitation shall be  
 51 made in the following manner, and shall be accepted by both  
 52 the high contracting parties as applicable for all purposes under  
 53 Article I of the convention of October 20, 1818, between the  
 54 United States and Great Britain.

55 The three marine miles mentioned in Article I of the conven-  
 56 tion of October 20, 1818, shall be measured seaward from low  
 57 water mark: but at every bay, creek, or harbor, not otherwise  
 58 specially provided for in this treaty, such three marine miles

59 shall be measured seaward from a straight line drawn across  
60 the bay, creek, or harbor, in the part nearest the entrance at  
61 the first point where the width does not exceed ten marine miles.

#### 62 ARTICLE IV.

63 At or near the following bays the limits of exclusion under  
64 Article I of the convention of October 20, 1818, at points more  
65 than three marine miles from low water mark, shall be estab-  
66 lished by the following lines, namely:

67 At the Baie des Chaleurs the line from the light at Birch  
68 Point on Miscou Island to Macquereau Point Light; at the Bay  
69 of Miramichi, the line from the light at Point Escuminac to  
70 the light on the eastern point of Tabisintac Gully; at Egmont  
71 Bay, in Prince Edward Island, the line from the light at Cape  
72 Egmont to the light at West Point; and off St. Ann's Bay,  
73 in the Province of Nova Scotia, the line from Cape Smoke to  
74 the light at Point Aconi.

75 At Fortune Bay, in Newfoundland, the line from Connaigre  
76 Head to the light on the southeasterly end of Brunet Island,  
77 thence to Fortune Head; at Sir Charles Hamilton Sound, the  
78 line from the southeast point of Cape Fogo to White Island,  
79 thence to the north end of Peckford Island, and from the south  
80 end of Peckford Island to the east Headland of Ragged Harbor.

81 At or near the following bays the limits of exclusion shall  
82 be three marine miles seaward from the following lines, namely:

83 At or near Barrington Bay, in Nova Scotia, the line from the  
84 light on Stoddard Island to the light on the south point of Cape  
85 Sable, thence to the light at Baccaro Point; at Chedabucto  
86 and St. Peter's Bay, the line from Cranberry Island Light to  
87 Green Island Light, thence to Point Rouge; at Mira Bay, the  
88 line from the light on the east point of Scatari Island to the  
89 northeasterly point of Cape Morien; and at Placentia Bay, in  
90 Newfoundland, the line from Latine Point, on the eastern main-  
91 land shore, to the most southerly point of Red Island, thence  
92 by the most southerly point of Merasheen Island to the mainland.

93 Long Island and Bryer Island, at St. Mary's Bay, in Nova Sco-  
94 tia, shall, for the purpose of delimitation, be taken as the coasts  
95 of such bay.

#### 96 ARTICLE V.

97 Nothing in this treaty shall be construed to include within  
98 the common waters any such interior portions of any bays,  
99 creeks, or harbors as cannot be reached from the sea without  
100 passing within the three marine miles mentioned in Article I  
101 of the convention of October 20, 1818.

#### 102 ARTICLE VI.

103 The Commissioners shall from time to time report to each of

104 the high contracting parties, such lines as they may have agreed  
 105 upon numbered, described, and marked as herein provided, with  
 106 quadruplicate charts thereof; which lines so reported shall  
 107 forthwith from time to time be simultaneously proclaimed by  
 108 the high contracting parties, and be binding after two months  
 109 from such proclamation.

110

## ARTICLE VII.

111 Any disagreement of the Commissioners shall forthwith be  
 112 referred to an umpire selected by the Secretary of State of the  
 113 United States and Her Britannic Majesty's Minister at Wash-  
 114 ington; and his decision shall be final.

115

## ARTICLE VIII.

116 Each of the high contracting parties shall pay its own Com-  
 117 missioners and officers. All other expenses jointly incurred,  
 118 in connection with the performance of the work, including com-  
 119 pensation to the umpire, shall be paid by the high contracting  
 120 parties in equal moieties.

121

## ARTICLE IX.

122 Nothing in this treaty shall interrupt or affect the free naviga-  
 123 tion of the Strait of Canso by fishing vessels of the United States.

124

## ARTICLE X.

125 United States fishing-vessels entering the bays or harbors  
 126 referred to in Article I of this treaty shall conform to harbor  
 127 regulations common to them and to fishing-vessels of Canada  
 128 or of Newfoundland.

129 They need not report, enter, or clear, when putting into such  
 130 bays or harbors for shelter or repairing damages, nor when  
 131 putting into the same, outside the limits of established ports of  
 132 entry, for the purpose of purchasing wood or of obtaining  
 133 water; except that any such vessel remaining more than twenty-  
 134 four hours, exclusive of Sundays and legal holidays, within any  
 135 such port, or communicating with the shore therein, may be  
 136 required to report, enter, or clear; and no vessel shall be ex-  
 137 cused hereby from giving due information to boarding officers.

138 They shall not be liable in any such bays or harbors for  
 139 compulsory pilotage; nor, when therein for the purpose of  
 140 shelter, of repairing damages, of purchasing wood, or of ob-  
 141 taining water, shall they be liable for harbor dues, tonnage  
 142 dues, buoy dues, light dues, or other similar dues; but this  
 143 enumeration shall not permit other charges inconsistent with  
 144 the enjoyment of the liberties reserved or secured by the con-  
 145 vention of October 20, 1818.

146

## ARTICLE XI.

147 United States fishing-vessels entering the ports, bays, and  
 148 harbors of the eastern and northeastern coasts of Canada or of



149 the coasts of Newfoundland under stress of weather or other  
 150 casualty may unload, reload, tranship, or sell, subject to cus-  
 151 toms laws and regulations, all fish on board, when such un-  
 152 loading, transshipment, or sale is made necessary as incidental  
 153 to repairs, and may replenish outfits, provisions, and supplies  
 154 damaged or lost by disaster; and in case of death or sickness  
 155 shall be allowed all needful facilities, including the shipping  
 156 of crews.

157 Licenses to purchase in established ports of entry of the afore-  
 158 said coasts of Canada or of Newfoundland, for the homeward  
 159 voyage, such provisions and supplies as are ordinarily sold to  
 160 trading-vessels, shall be granted to United States fishing-vessels  
 161 in such ports promptly upon application and without charge;  
 162 and such vessels, having obtained licenses in the manner afore-  
 163 said, shall also be accorded upon all occasions such facilities  
 164 for the purchase of casual or needful provisions and supplies as  
 165 are ordinarily granted to trading vessels; but such provisions  
 166 or supplies shall not be obtained by barter nor purchased for  
 167 resale or traffic.

168

## ARTICLE XII.

169 Fishing-vessels of Canada and Newfoundland shall have on  
 170 the Atlantic coast of the United States all the privileges re-  
 171 served and secured by this treaty to United States fishing ves-  
 172 sels in the aforesaid waters of Canada and Newfoundland.

173

## ARTICLE XIII.

174 The Secretary of the Treasury of the United States shall  
 175 make regulations providing for the conspicuous exhibition by  
 176 every United States fishing-vessel of its official number on each  
 177 bow; and any such vessel required by law to have an official  
 178 number and failing to comply with such regulations shall not  
 179 be entitled to the licenses provided for in this treaty.

180 Such regulations shall be communicated to Her Majesty's  
 181 Government previously to their taking effect.

182

## ARTICLE XIV.

183 The penalties for unlawfully fishing in the waters, bays,  
 184 creeks, and harbors, referred to in Article I of this treaty, may  
 185 extend to forfeiture of the boat or vessel and appurtenances,  
 186 and also of the supplies and cargo aboard when the offense was  
 187 committed; and for preparing in such waters to unlawfully fish  
 188 therein penalties shall be fixed by the court, not to exceed those  
 189 for unlawfully fishing; and for any other violation of the laws  
 190 of Great Britain, Canada, or Newfoundland relating to the  
 191 right of fishery in such waters, bays, creeks, or harbors penal-  
 192 ties shall be fixed by the court, not exceeding in all three dol-  
 193 lars for every ton of the boat or vessel concerned. The boat or  
 194 vessel may be holden for such penalties and forfeitures.

195 The proceedings shall be summary and as inexpensive as  
 196 practicable. The trial (except on appeal) shall be at the place  
 197 of detention, unless the judge shall, on request of the defense,  
 198 order it to be held at some other place adjudged by him more  
 199 convenient. Security for costs shall not be required of the de-  
 200 fense, except when bail is offered. Reasonable bail shall be  
 201 accepted. There shall be proper appeals available to the  
 202 defense only; and the evidence at the trial may be used on  
 203 appeal.

204 Judgments of forfeiture shall be reviewed by the Governor-  
 205 General of Canada in Council, or the Governor in Council of  
 206 Newfoundland, before the same are executed.

#### 207 ARTICLE XV.

208 Whenever the United States shall remove the duty from fish-  
 209 oil, whale-oil, seal-oil, and fish of all kinds (except fish pre-  
 210 served in oil), being the product of fisheries carried on by the  
 211 fishermen of Canada and Newfoundland, including Labrador,  
 212 as well as from the usual and necessary casks, barrels, kegs,  
 213 cans, and other usual and necessary coverings containing the  
 214 products above mentioned, the like products, being the produce  
 215 of fisheries carried on by the fishermen of the United States, as  
 216 well as the usual and necessary coverings of the same, as above  
 217 described, shall be admitted free of duty into the Dominion of  
 218 Canada and Newfoundland.

219 And upon such removal of duties, and while the aforesaid  
 220 articles are allowed to be brought into the United States by  
 221 British subjects, without duty being reimposed thereon, the  
 222 privilege of entering the ports, bays, and harbors of the afore-  
 223 said coasts of Canada and Newfoundland shall be accorded to  
 224 United States fishing-vessels by annual licenses, free of charge,  
 225 for the following purposes, namely:

226 1. The purchase of provisions, bait, ice, seines, lines, and all  
 227 other supplies and outfits;

228 2. Transshipment of catch, for transport by any means of  
 229 conveyance;

230 3. Shipping of crews.

231 Supplies shall not be obtained by barter, but bait may be so  
 232 obtained.

233 The like privileges shall be continued or given to fishing-ves-  
 234 sels of Canada and of Newfoundland on the Atlantic coasts of  
 235 the United States.

#### 236 ARTICLE XVI.

237 This treaty shall be ratified by the President of the United  
 238 States, by and with the advice and consent of the Senate; and  
 239 by Her Britannic Majesty, having received the assent of the  
 240 Parliament of Canada and of the Legislature of Newfoundland;  
 241 and the ratifications shall be exchanged at Washington as soon  
 242 as possible.

243 In faith whereof, we, the respective plenipotentiaries, have  
244 signed this treaty, and have hereunto affixed our seals.

245 Done in duplicate, at Washington, this 15th day of Febru-  
246 ary, in the year of our Lord one thousand eight hundred and  
247 eighty-eight.

248	T. F. BAYARD.	[SEAL.]
249	WILLIAM L. PUTNAM.	[SEAL.]
250	JAMES B. ANGELL.	[SEAL.]
251	J. CHAMBERLAIN.	[SEAL.]
252	L. S. SACKVILLE WEST.	[SEAL.]
253	CHARLES TUPPER.	[SEAL.]

# I.

## PROTOCOL OF FISHERIES CONFERENCE.

WASHINGTON, November 22, 1887.

The fisheries conference having formally met, the full powers of the plenipotentiaries were exhibited and found to be in good and due form, as follows:

GROVER CLEVELAND, *President of the United States of America.* To all to whom these presents shall come, Greeting:

Know ye that, reposing special trust and confidence in the integrity and ability of Thomas F. Bayard, Secretary of State; William L. Putnam, of Maine; and James B. Angell, of Michigan; I hereby invest them with full power jointly and severally, for and in the names of the United States, to meet and confer with plenipotentiaries representing the government of Her Britannic Majesty, for the purpose of considering and adjusting in a friendly spirit all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland which are in dispute between the Government of the United States and that of Her Britannic Majesty, and any other questions which may arise and which they may be authorized by their respective governments to consider and adjust; and I also fully empower and authorize the said Thomas F. Bayard, William L. Putnam, and James B. Angell, jointly and severally, to conclude and sign any treaty or treaties touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington this eighteenth day of November, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States, the one hundredth and twelfth.

GROVER CLEVELAND.

By the President:

T. F. BAYARD,  
*Secretary of State.*

VICTORIA R. & I. *Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India, &c., &c., &c., To All and Singular to whom these Presents shall come, Greeting!*

Whereas for the purpose of considering and adjusting in a friendly spirit with plenipotentiaries, to be appointed on the part of our good friends, the United States of America, all or any questions relating to rights of fishery in the seas adjacent to British North America and Newfoundland, which are in dispute between our Government and that of our said good friends, and any other questions which may arise, which the respective plenipotentiaries may be authorized by their Governments to consider and adjust, we have judged it expedient to invest fit persons with full power to conduct on our part the discussions in this behalf. Know ye, therefore, that we, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of our right trusty and well-beloved Councillor, Joseph Chamberlain, a member of our Most Honorable Privy Council and a member of Parliament, &c., &c.; of our trusty and well beloved, the Hon. Sir Lionel Sackville Sackville West, Knight Commander of our Most Distinguished Order of St. Michael and St. George, our Envoy Extraordinary and Minister Plenipotentiary to our said good friends, the United States of America, &c., &c., and of our trusty and well beloved Sir Charles Tupper, Knight Grand Cross of our Most Distinguished Order of St. Michael and St. George, companion of our Most Honorable Order of the Bath, Minister of Finance of the Dominion of Canada, &c., &c., have named, made, constituted, and appointed, as we do by these presents name, make, constitute, and appoint them our undoubted plenipotentiaries; giving to them, or to any two of them, all manner of authority to treat, adjust, and conclude, with such plenipotentiaries as may be vested with similar power and authority, on the part of our good friends, the United States of America, any treaties, conventions, or agreements that may tend to the attainment of the above-mentioned end, and to sign for us and in our name everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work, in as ample manner and form, and with equal force and efficiency as we ourselves could do if personally present; engaging and promising upon our royal word that whatever things shall be so transacted and concluded by our said plenipotentiaries shall be agreed to, acknowledged, and accepted by us in the fullest manner, and that we will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in our power. In witness whereof, we have caused the great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents which we have signed with our royal hand. Given at our court at Balmoral the twenty-fourth day of October, in the year of our Lord one thousand eight hundred and eighty-seven, and in the fifty-first year of our reign.

The British plenipotentiaries proposed that Mr. Bayard, Secretary of State of the United States, should preside.

Mr. Bayard, while expressing appreciation of the proposal, stated the opinion, in which the other United States plenipotentiaries concurred, that it was not necessary that any one should preside; and the proposal was permitted to rest.

Mr. John B. Moore, Third Assistant Secretary of State of the United States, acting as Secretary to the United States plenipotentiaries, and Mr. J. H. G. Bergne, C. M. G., Superintendent of the Treaty Department of the British Foreign Office, acting as secretary to the British plenipotentiaries, were requested to make the protocols of the conference.

After some discussion of questions before the conference, it was adjourned to 12 o'clock m. of the 28th of November.

#### PROTOCOL.

The treaty having been signed by the British plenipotentiaries desire to state that they have been considering the position which will be created by the immediate commencement of the fishing season before the treaty can possibly be ratified by the Senate of the United States, by the Parliament of Canada, and the legislature of Newfoundland.

In the absence of such ratification the old conditions which have given rise to so much friction and irritation might be revived, and might interfere with the unprejudiced consideration of the treaty by the legislative bodies concerned.

Under these circumstances, and with the further object of affording evidence of their anxious desire to promote good feeling and to remove all possible subjects of controversy, the British plenipotentiaries are ready to make the following temporary arrangement for a period not exceeding two years, in order to afford a "*modus vivendi*" pending the ratification of the treaty.

1. For a period not exceeding two years from the present date, the privilege of entering the bays and harbors of the Atlantic coasts of Canada and Newfoundland shall be granted to United States fishing vessels by annual licenses at a fee of \$1½ per ton—for the following purposes:

The purchase of bait, ice, seines, lines, and all other supplies and outfits.

Transshipment of catch and shipping of crews.

2. If during the continuance of this arrangement, the United States should remove the duties on fish, fish-oil, whale and seal-oil (and their coverings, packages, &c.), the said licenses shall be issued free of charge.

3. United States fishing-vessels entering the bays and harbors of the Atlantic coasts of Canada or of Newfoundland for any of the four purposes mentioned in Article I of the convention of October 20, 1818, and not remaining therein more than twenty-four hours, shall not be required to enter or clear at the custom house, providing that they do not communicate with the shore.



4. Forfeiture to be exacted only for the offenses of fishing or preparing to fish in territorial waters.

5. This arrangement to take effect as soon as the necessary measures can be completed by the colonial authorities.

J. CHAMBERLAIN.  
L. S. SACKVILLE WEST.  
CHARLES TUPPER.

WASHINGTON, *February 15, 1888.*

PROTOCOL.

The American plenipotentiaries having received the communication of the British plenipotentiaries of this date conveying their plan for the administration to be observed by the Governments of Canada and Newfoundland in respect of the fisheries during the period which may be requisite for the consideration by the Senate of the treaty this day signed, and the enactment of the legislation by the respective Governments therein proposed, desire to express their satisfaction with this manifestation of an intention on the part of the British plenipotentiaries, by the means referred to, to maintain the relations of good neighborhood between the British possessions in North America and the United States; and they will convey the communication of the British plenipotentiaries to the President of the United States, with a recommendation that the same may be by him made known to the Senate for its information, together with the treaty, when the latter is submitted to that body for ratification.

T. F. BAYARD.  
WILLIAM L. PUTNAM.  
JAMES B. ANGELL.

WASHINGTON, *February 15, 1888.*